

1 VIRGINIA:

2 IN THE COUNTY OF WASHINGTON

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8 JUNE 16 1998

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12 BOARD MEETING

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22 Reported by:
23 SONYA MICHELLE BROWN, Court Reporter
24 Rife & Associates
25

1 P. O. Box 798
2 Grundy, Virginia 24614
3 (540) 935-5257

4 BENNY WAMPLER: Good morning. My name is Benny
5 Wampler. I'm Deputy Director for the Virginia Department of
6 Mines, Minerals and Energy, and Chairman of the Gas and Oil
7 Board; and I'll ask the Members to introduce themselves,
8 starting with Mr. Brent.

9 MASON BRENT: Good morning. My name is Mason Brent.
10 I represent the Gas and Oil Industry, and I'm from Richmond.

11 DENNIS GARBIS: My name is Dennis Garbis. I'm a
12 public member from Fairfax County.

13 MAX LEWIS: Max Lewis, a public member from Buchanan
14 County.

15 SANDRA RIGGS: Sandra Riggs, with the Office of the
16 Attorney General.

17 TOM FULMER: Tom Fulmer, Department of Mines,
18 Minerals and Energy.

19 BENNY WAMPLER: Thank you. The first item on
20 today's agenda, the Board will consider a petition from
21 Equitable Resources Energy Company for pooling of a coalbed
22 methane gas unit identified as VC-3748, located in the Big A
23 Mountain Quadrangle. This is docket number VGOB-98-07/21-
24 0672. We'd ask the parties that wish to address the Board in
25 this matter to come forward at this time and introduce

1 yourselves, please.

2 JIM KISER: Mr. Chairman and members of the Board,
3 Jim Kiser on behalf of Equitable Resources Energy Company.
4 Our witnesses in this matter will be Mr. Dennis Baker and Mr.
5 Bob Dahlin.

6 BENNY WAMPLER: The record will show there are no
7 others. You go ahead and swear the witnesses.

8 (Witnesses are duly sworn.)

9

10 DENNIS R. BAKER
11 having been duly sworn, was examined and testified as
12 follows:

13 DIRECT EXAMINATION

14 QUESTIONS BY MR. KISER:

15 Q. Mr. Baker, could you state your name for the
16 record, who you're employed by and in what capacity?

17 A. My name is Dennis R. Baker. I'm employed by
18 Equitable Resources Energy Company as Senior Landman.

19 Q. And do your responsibilities with EREC
20 include the land involved in the unit here and in the
21 surrounding area?

22 A. Yes, they do.

23 Q. And are you familiar with Equitable's

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1 application for seeking a pooling order for Equitable well
2 number VC-3748, that was dated June 18th, 1998?

3 A. Yes.

4 Q. Is Equitable seeking to force pool the
5 drilling rights underlying the unit as depicted at Exhibit A
6 of the application?

7 A. Yes.

8 Q. And does the location proposed for this well
9 fall within the Board's order for Nora coalbed gas field?

10 A. Yes, it does.

11 Q. Now, prior to filing the application, were
12 efforts made to contact each of the respondents in an attempt
13 made to work out an agreement regarding the development of
14 the unit?

15 A. Yes, it was.

16 Q. Okay. And does Equitable own drilling
17 rights in the unit involved here?

18 A. Yes, we do.

19 Q. What is the interest of Equitable in the gas
20 estate within the unit?

21 A. The interest leased at present time is 98.35
22 percent in the gas estate.

23 Q. And what is the interest of Equitable in the
24

1 coal estate within the unit?

2 A. The interest in the coal estate leased to
3 Equitable 98.35 percent.

4 Q. Okay. So, are all the unleased parties set
5 out in Exhibit B to the application?

6 A. Yes.

7 Q. And subsequent to the filing of the
8 application, do you continue to attempt to reach an agreement
9 with the unleased parties listed in Exhibit B?

10 A. Yes, we have.

11 Q. And as a result of these efforts, were you
12 successful?

13 A. No.

14 Q. Okay. So, the only unleased interest is on
15 Tract Four (4) and that's the Compton interest?

16 A. Yes, that's correct.

17 Q. And what is the percentage of interest in
18 both the gas estate and coal estate that the Tract Four (4),
19 the unleased interest, represents?

20 A. The unleased portion is 1.65 percent.

21 Q. Okay. Mr. Baker, were efforts made to
22 determine if the individual respondents were living or
23 deceased or their whereabouts, and if deceased, were efforts

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1 made to determine the names and addresses and whereabouts of
2 the successors to any deceased individual?

3 A. Yes.

4 Q. In your professional opinion, was due
5 diligence exercised to locate each of the respondents named
6 in Exhibit B?

7 A. Yes, they were.

8 Q. And are the addresses set out in the Exhibit
9 B to the application the last known addresses for the
10 respondents?

11 A. Yes, that's correct.

12 Q. Are you requesting this Board to force pool
13 all the unleased interest listed in revised Exhibit B?

14 A. Yes.

15 Q. Are you familiar with the fair market value
16 of drilling rights in the unit here and in the surrounding
17 area?

18 A. Yes, I am.

19 Q. Could you advise the Board as to what those
20 are?

21 A. A five dollar (\$5) per acre consideration,
22 for a five year term, one-eighth of eight-eighth royalty.

23 Q. Did you gain this familiarity by acquiring
24

1 oil and gas leases, coalbed methane leases and other
2 agreements involving the transfer of drilling rights in the
3 unit involved here and in the surrounding area?

4 A. Yes, I did.

5 Q. In your opinion, do the terms you have
6 testified to represent the fair market value of and the fair
7 and reasonable compensation to be paid for drilling rights
8 within this unit?

9 A. Yes.

10 Q. As to the respondents Tract Four (4) who
11 have not voluntarily agreed to lease, do you recommend that
12 they be allowed the following options with respect to their
13 ownership interest within the unit - one, participation; two,
14 a cash bonus of five dollars (\$5) per net mineral acre plus a
15 one-eighth of eight-eighths royalty; three, in lieu of cash
16 bonus, a one-eighth of eight-eighths royalty share in the
17 operation of the well on a carried bases as a carried
18 operator on the following conditions: Such carried operator
19 shall be entitled to the share of production from the tracts
20 pooled accruing to his interest exclusive of any royalty or
21 overriding royalty reserved in any leases, assignments
22 thereof or agreements relating thereto of such tracts, but
23 only after the proceeds applicable to his share equal 300

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1 percent of the share of such costs applicable to the interest
2 of the carried operator of a leased tract or portion thereof;
3 or (B) 200 percent of the share of such costs applicable to
4 the interest of the carried operator of an unleased tract or
5 portion thereof?

6 A. Yes, to those options.

7 Q. Do you recommend the Board order provide
8 that elections by respondents be in writing and sent to the
9 applicant at Equitable Resources Energy Company, Eastern
10 Region, P. O. Box 1983, Kingsport, Tennessee 37662,
11 Attention: Dennis R. Baker, Regulatory?

12 A. That's correct.

13 Q. And should this be the address for all
14 communications with the applicant concerning the force
15 pooling order?

16 A. Yes.

17 Q. Do you recommend that the order provide that
18 if no written elections is properly made by a respondent,
19 then such respondent shall be deemed to have elected to cash
20 royalty option in lieu of participation?

21 A. Yes.

22 Q. And should any unleased respondent be given
23 thirty (30) days from the date of the Board order to file
24

1 their written election?

2 A. Yes.

3 Q. If an unleased respondent elects to
4 participate, should they be given forty-five (45) days to pay
5 the applicant for their proportionate share of well cost?

6 A. Yes.

7 Q. Does Equitable expect any party electing to
8 participate to pay in advance that party's share of completed
9 well costs?

10 A. Yes.

11 Q. Should the applicant be allowed a hundred
12 and twenty (120) days following the recording of the Board
13 order, and thereafter, annually on that date, until
14 production is achieved to pay or tender any cash bonus
15 becoming due under the force order?

16 A. Yes.

17 Q. Do you recommend that the order provide that
18 if the respondent elects to participate, but fails to pay
19 their proportionate share of well costs satisfactory to the
20 applicant for payment of those costs, the respondent's
21 election to participant should be treated as having been
22 withdrawn and void and such respondent should be treated as
23 having been withdrawn and void, and such respondent should be
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1 treated as if no initial election had been filed under the
2 order?

3 A. Yes.

4 Q. Do you recommend that where a respondent
5 elects to participate, but defaults in regard to the payment
6 of well costs, any cash sum becoming payable to such
7 respondent be paid within sixty (60) days after the last date
8 on which such respondent could have paid or made satisfactory
9 arrangements for the payment of those well costs?

10 A. Yes.

11 (Mr. Kiser confers with Mr. Dennis R. Baker.)

12 Q. Mr. Baker, is there any reason for a escrow
13 to be established for this unit?

14 A. No, I don't think so.

15 Q. There are no unknown or unlocateable parties
16 and there are no conflicting complainants?

17 A. No.

18 Q. And who should be named the operator under
19 the force pooling order?

20 A. Equitable Resources Energy Company.

21 JIM KISER: That's all I have of this witness at
22 this time, Mr. Chairman.

23 BENNY WAMPLER: Any questions from members of the
24

1 Board?

2 MASON BRENT: I just have one.

3 BENNY WAMPLER: Mr. Brent.

4 MASON BRENT: On Tract Four (4), Willis Compton is

5 unleased and apparently just has a life estate interest in

6 that property. He has zero interest in the unit and acreage.

7 So---?

8 MAX LEWIS: He's just...he's just got a life time

9 interest.

10 MASON BRENT: ---how is he...I mean, do you have to

11 lease him in some way?

12 DENNIS R. BAKER: Yes...yes. He---.

13 MAX LEWIS: What do you...what do you do in a case

14 like that if you just got a life time control of the property

15 and they---?

16 DENNIS R. BAKER: The remainder interest, which is

17 Phillip Compton, the revenue that would be earned from this

18 property, whether it be renting the property, leasing the

19 crops, timber, leasing oil and gas rights, royalties from

20 anything, would be put into an interest bearing account and

21 the life estate owner would receive that interest, and then

22 the bulk of the principal would remain for the remainder

23 interest of the lessor.

24

1 MAX LEWIS: That's what I wondered.

2 MASON BRENT: So, Willis Compton has a financial
3 interest in Phillip Compton's percentage of this unit, is
4 that right?

5 DENNIS R. BAKER: Yes.

6 MASON BRENT: So, but that...I mean, that requires
7 that you officially lease...lease with Willis Compton on
8 this?

9 DENNIS R. BAKER: Yes, uh-huh.

10 JIM KISER: To take away some of the life estate and
11 the remainder.

12 BENNY WAMPLER: Any other questions?
13 (No audible response.)

14 BENNY WAMPLER: Call your next witness.

15

16 ROBERT A. DAHLIN, II
17 having been duly sworn, was examined and testified as
18 follows:

19 QUESTIONS BY MR. KISER:

20 Q. Now, Mr. Dahlin, could state your name for
21 record, who you are employed by and in what capacity?

22 A. My name is Robert A. Dahlin, II. I'm
23 employed by ERECs, as a Production Specialist.

24

1 Q. And have you previously testified before the
2 Virginia Gas and Oil Board and your qualifications as an
3 expert witness in the area of operations and productions have
4 been accepted by the Board?

5 A. Yes, it has.

6 Q. And do your responsibilities with Equitable
7 include the land involved here and in surrounding area?

8 A. Yes.

9 Q. Are you familiar with the proposed
10 exploration and development of the unit under the applicant's
11 plan of development?

12 A. Yes, I am.

13 Q. What is the total depth of the proposed well
14 under the plan of development?

15 A. One thousand eight hundred and thirty-seven
16 (1,837) feet.

17 Q. And will this be sufficient to penetrate and
18 test the common sources as supply in the subject formations?

19 A. Yes.

20 Q. And what are the estimated reserves of this
21 unit?

22 A Three hundred and fifty million cubic feet.

23 Q. And are you familiar with the well costs for the proposed well
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1 under the plan of development?

2 A. Yes.

3 Q. Has an AFE been reviewed, signed and submitted to the Board?

4 A. Yes, it has.

5 Q. And was this AFE prepared by an engineering department

6 knowledgeable in regard to well costs in this area?

7 A. Yes.

8 Q. And does this AFE represent, in your opinion, a reasonable

9 estimate of the well costs under the plan of development?

10 A. Yes.

11 Q. Could you set for the Board at this time both the dry hole costs

12 and completed well costs?

13 A. The dry hole costs are eighty-nine thousand one hundred and fifty-

14 one dollars (\$89,151), with a completed well cost of one hundred and eighty-two thousand

15 and one hundred dollars (\$182,100).

16 Q. And do these costs, as represented by the AFE, anticipate a

17 multiple completion?

18 A. Yes, it does.

19 Q. Mr. Dahlin, in your professional opinion, will the granting of this

20 application be in the best interest of conservation, the prevention of waste and the

21 protection of correlative rights?

22 A. Yes.

23 JIM KISER: Nothing further of this witness at this time, Mr. Chairman.

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1 BENNY WAMPLER: Any questions from members of the Board?
2 (No audible response.)
3 BENNY WAMPLER: Do you have anything further?
4 JIM KISER: Mr. Chairman, we'd ask that the application be approved as
5 submitted.
6 MASON BRENT: Mr. Chairman, I move that we grant the application as
7 submitted.
8 DENNIS GARBIS: I second.
9 BENNY WAMPLER: Motion to approve and seconded, any further
10 discussion?
11 (No audible response.)
12 BENNY WAMPLER: All in favor signify by saying yes.
13 (All Members signify by a yes.)
14 BENNY WAMPLER: Opposed say no.
15 (No audible response.)
16 BENNY WAMPLER: Unanimous approval. Thank you. The next item on
17 the agenda is a petition from Equitable Resources Energy Company for pooling of a
18 coalbed methane gas unit identified as VC-2978, Docket Number VGOB-98-07/21-0673.
19 We'd ask the parties that wish to address the Board in this matter to come forward at this
20 time.
21 JIM KISER: Mr. Chairman, Jim Kiser once again behalf of Equitable
22 Resources Energy Company. Our witnesses again will be Mr. Baker and Mr. Dahlin.
23 BENNY WAMPLER: The record will show there are no others. Your
24

1 witnesses are reminded they have been previously sworn. You may continue.

2

3 DENNIS R. BAKER

4 having been duly sworn, was examined and testified as
5 follows:

6 DIRECT EXAMINATION

7 QUESTIONS BY MR. KISER:

8 Q. Mr. Baker, would you again state your name
9 for the record, who you are employed by and in what capacity?

10 A. My name is Dennis R. Baker. I'm employed by
11 Equitable Resources Energy Company as Senior Landman.

12 Q. And do your responsibilities include the
13 land involved in the unit for VC-2978 and in the surrounding
14 area?

15 A. Yes.

16 Q. And you are familiar with the application
17 that we filed seeking a pooling order for Equitable well
18 number VC-2978, which is dated June 18th, 1998?

19 A. Yes.

20 Q. Is Equitable seeking to force pool the
21 drilling rights as depicted at Exhibit A to the plat to the
22 application?

23 A. Yes.

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1 Q. Does the location proposed for well number
2 VC-2978 fall within the Board's order for the Nora coalbed
3 gas field?

4 A. Yes, it does.

5 Q. Okay. Now, prior to the filing of the
6 application, were efforts by your people made to contact each
7 of the respondents listed in an attempt made to work out an
8 agreement regarding a voluntary lease and the development of
9 the unit?

10 A. Yes.

11 Q. Does Equitable own drilling rights in the
12 unit involved here?

13 A. Yes, we do.

14 Q. Okay. Let's talk about the gas estate
15 first. What is the percentage of the gas estate in the unit
16 that's under lease?

17 A. The interest in the gas estate leased to
18 Equitable is 92.05 percent.

19 Q. And what is the percentage of the coal
20 estate within the unit that's under lease to Equitable?

21 A. The interest coal estate leased to Equitable
22 is one hundred (100) percent.

23 Q. Okay. And are all the unleased parties set
24

1 out in Exhibit B that was filed with the application?

2 A. Yes, they are.

3 Q. Okay. Now, subsequent to the filing of your
4 application, did you continue to attempt to reach an
5 agreement with the gas estate owners that are unleased within
6 the unit?

7 A. Yes.

8 Q. And as a result of these efforts, were you
9 able to obtain a lease?

10 A. No, we were not.

11 Q. So, the only unleased interest within the
12 unit is the Martha and Charles Musick interest in Tract Three
13 (3) under the gas estate?

14 A. That's correct.

15 Q. And what percentage of the gas estate does
16 that represent?

17 A. 7.95 percent of the unit.

18 Q. And in your professional opinion, was due
19 diligence exercised to locate each of the respondents named
20 in Exhibit B?

21 A. Yes.

22 Q. And are the addresses set out in Exhibit B
23 to the application the last known addresses for the
24

1 respondents?

2 A. Yes, they are.

3 Q. And are you requesting this Board to force

4 pool all unleased interest listed in Exhibit B?

5 A. Yes, we are.

6 Q. And are you familiar with the fair market

7 value of drilling rights within the unit here and in the

8 surrounding area?

9 A. Yes, I am.

10 Q. Could you once again advise the Board as to

11 what those are?

12 A. A five dollar (\$5) per acre consideration, a

13 five (5) year term, one-eighth of eight-eighth royalty.

14 Q. Did you gain this familiarity by acquiring

15 oil and gas leases, coalbed methane leases and other

16 agreements involving the transfer of drilling rights in the

17 unit involved here and in the surrounding area?

18 A. Yes, I did.

19 Q. And in your professional opinion, do the

20 terms you've testified to represent the fair market value of

21 and the fair and reasonable compensation to be paid for

22 drilling rights within the unit?

23 A. Yes.

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1 JIM KISER: Mr. Chairman, with you and the Board's
2 permission, at this time we would like to incorporate the
3 testimony regarding the options afforded the unleased and
4 their time constraints to comply with those election options
5 that was previously take in VGOB docket number 98-07/21-0672.

6 BENNY WAMPLER: They will be incorporated.

7 Q. Okay. Mr. Baker, we do have a conflicting
8 complainant in this unit. So, do you recommend that the
9 order provide that in the event of a conflicting claim to the
10 coalbed methane, that the operator pay into an escrow account
11 created by the Board in to which all costs or proceeds
12 attributable to conflicting interest shall be held for the
13 respondent's benefit until such funds can be paid to the
14 party by order of the Board, or until conflicting claim is
15 resolved?

16 A. Yes, we do.

17 Q. And who should be named the operator under
18 any force pooling order?

19 A. Equitable Resources Energy Company.

20 JIM KISER: That's all I have of this witness at
21 this time, Mr. Chairman.

22 BENNY WAMPLER: Any questions of this witness?

23 MASON BRENT: I have just one question.

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1 BENNY WAMPLER: Mr. Brent.

2 MASON BRENT: On your plat, can you tell me from
3 which direction you're accessing that well? Are you going
4 across the Musick's property at all?

5 DENNIS R. BAKER: No, we are not. There is no
6 surface operation going on.

7 MASON BRENT: Okay.

8 BENNY WAMPLER: Other questions?

9 (No audible response.)

10 BENNY WAMPLER: Call your next witness.

11

12 ROBERT A. DAHLIN, II

13 having been duly sworn, was examined and testified as
14 follows:

15 QUESTIONS BY MR. KISER:

16 Q. Mr. Dahlin, state your name for the Board,
17 who you're employed by and in what capacity?

18 A. My name is Robert A. Dahlin, II. I'm
19 employed by Equitable Resources Energy Company, as Production
20 Specialist.

21 Q. And your qualifications as an expert in
22 those areas have previously been accepted?

23 A. That's correct.

24

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1 Q. And your responsibilities include in the
2 land here and in the surrounding area?

3 A. Yes.

4 Q. And you are familiar with the proposed
5 exploration and development of this unit under the plan of
6 development?

7 A. Yes, I am.

8 Q. And what is the total depth of the proposed
9 well?

10 A. Two thousand three hundred and three (2,303)
11 feet.

12 Q. And this will be sufficient to test...to
13 penetrate and test the common sources as supplied in the
14 subject formations?

15 A. Yes.

16 Q. What are the estimated reserves of this
17 unit?

18 A. Three hundred and fifty million cubic feet.

19 Q. Are you familiar with the well costs for the
20 proposed well under the plan?

21 A. Yes, I am.

22 Q. And has an AFE been reviewed, signed and
23 submitted to the Board along with the application?

24

1 A. It has.

2 Q. And was this AFE prepared by an engineering
3 department knowledgeable in the preparation of such AFEs and
4 knowledgeable in regard to well costs in this particular
5 area?

6 A. Yes.

7 Q. In your professional opinion, does it
8 represent a reasonable estimate of the well costs under the
9 plan of development?

10 A. Yes, it does.

11 Q. What...could you state for the Board both
12 the dry hole costs and completed well costs?

13 A. The dry hole costs are eighty-two thousand
14 six hundred and fifty dollars (\$82,650), and the completed
15 well costs are one hundred and seventy-seven thousand one
16 hundred dollars (\$177,100).

17 Q. And do these costs anticipate a multiple
18 completion?

19 A. Yes.

20 Q. Mr. Dahlin, in your professional opinion,
21 will the granting of this application be in the best interest
22 of conservation, the prevention of waste and the protection
23 of correlative rights?

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1 A. Yes.

2 JIM KISER: Nothing further of this witness at this
3 time, Mr. Chairman.

4 BENNY WAMPLER: Any questions from members of the
5 Board?

6 DENNIS GARBIS: I have a question. On your costs,
7 the previous one was at a depth of eighteen hundred (1800)
8 feet and the costs were less than this well which is at
9 twenty-three hundred (2300) feet. There's a five hundred
10 (500) feet difference. Why is there additional costs on
11 those?

12 ROBERT A. DAHLIN, II: The last well, the costs were
13 one hundred eighty-two thousand (182,000)---.

14 DENNIS GARBIS: Right.

15 ROBERT A. DAHLIN, II: ---this one is one seventy-
16 seven. There was, I believe, something like five thousand
17 (\$5,000) dollars worth of surface damages and the location
18 was very expensive also.

19 DENNIS GARBIS: Uh-huh.

20 ROBERT A. DAHLIN, II: I scanned down through them
21 and all of the costs are in line. It's just an individual
22 accumulation of each---.

23 DENNIS GARBIS: It just appeared to me---.

24

1 ROBERT A. DAHLIN, II: Yes.

2 DENNIS GARBIS: ---that the one with five hundred
3 (500) foot more, they would be proportionately---.

4 ROBERT A. DAHLIN, II: Right. So it's basically
5 depending on what complications you run into and, you know,
6 what we know up front we'll have to deal with the surface
7 owners and whatnot.

8 BENNY WAMPLER: And this well is in the three
9 hundred (300) foot window, is that correct?

10 ROBERT A. DAHLIN, II: It should be, yes.

11 JIM KISER: Yes.

12 MASON BRENT: It doesn't look like it on the plat.

13 JIM KISER: Mr. Hall is not here, but I assume he
14 has applied for a location exception with Mr. Fulmer's
15 office.

16 ROBERT A. DAHLIN, II: Okay. I wasn't sure.

17 BENNY WAMPLER: Okay.

18 JIM KISER: Under the modification to the Nora
19 rules.

20 BENNY WAMPLER: Any other questions from members of
21 the Board?

22 (No audible response.)

23 BENNY WAMPLER: Do you have anything further?

24

1 JIM KISER: We'd ask that the application be
2 approved as submitted, Mr. Chairman.

3 SANDRA RIGGS: Has the permit been approved yet or
4 is it still pending?

5 (No audible response.)

6 SANDRA RIGGS: It has been issued?

7 (No audible response.)

8 SANDRA RIGGS: Okay.

9 TOM FULMER: Few months ago.

10 SANDRA RIGGS: So, it has been...the exception has
11 been granted already.

12 TOM FULMER: Been granted, right. That and the
13 (inaudible).

14 SANDRA RIGGS: Okay.

15 JIM KISER: Okay.

16 BENNY WAMPLER: Okay. Do I have a motion?

17 MAX LEWIS: I make a motion we approve it as
18 presented.

19 MASON BRENT: I second.

20 BENNY WAMPLER: Motion and second. Any further
21 discussion?

22 (No audible response.)

23 BENNY WAMPLER: All in favor, signify by saying
24

1 yes.

2 (All members signify by yes.)

3 BENNY WAMPLER: Opposed, say no.

4 (No audible response.)

5 BENNY WAMPLER: Unaminaious approval.

6 The next item on the agenda is a petition from
7 Equitable Resources Energy Company, for pooling of a coalbed
8 methane gas unit identified as VC-3759. This is docket
9 number VGOB-98-07/21-0674. We'd ask the parties that wish to
10 address the Board in this matter to come forward at this time
11 and introduce yourselves, please.

12 JIM KISER: Mr. Chairman, Jim Kiser on behalf of
13 Equitable Resources Energy Company. Our witnesses again in
14 this matter will be Mr. Baker and Mr. Dahlin. I want to
15 remind them that they have been sworn.

16 BENNY WAMPLER: Okay. The record will show there
17 are no others. You may proceed.

18 JIM KISER: Mr. Baker, has passed out a revised
19 Exhibit B, which we will get to here in a minute.

20

21 DENNIS R. BAKER

22 having been duly sworn, was examined and testified as
23 follows:

24

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1 DIRECT EXAMINATION

2 QUESTIONS BY MR. KISER:

3 Q. Please state your name again for the record
4 and who you are employed by and in what capacity?

5 A. Dennis R. Baker. I'm employed by Equitable
6 Resources Energy Company as Senior Landman.

7 Q. And do your responsibilities include the
8 land involved in the unit here and in the surrounding area?

9 A. Yes, it does.

10 Q. And are you familiar with the application
11 that Equitable filed for the establishment for the seeking of
12 pooling order for Equitable well number VC-3759, dated June
13 19th, 1998?

14 A. Yes, I am.

15 Q. Is Equitable seeking to force pool the
16 drilling rights underlying the unit as depicted at Exhibit A
17 to that application?

18 A. Yes.

19 Q. Does this location for well number VC-3759
20 fall within the Board's order for the Nora coalbed gas field?

21 A. Yes, it does.

22 Q. Now, prior to filing the application, were
23 efforts made to contact each of the respondents within the
24

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1 unit in an attempt made to work out a voluntary lease
2 agreement?

3 A. Yes, it was.

4 Q. Does Equitable own drilling rights involved
5 in the unit here?

6 A. Yes, we do.

7 Q. At the time of application, what was the
8 interest of Equitable within the gas estate?

9 A. The interest leased to Equitable at the time
10 of application was 94.73 percent.

11 Q. And at the time of application, what was the
12 interest of Equitable in the coal estate?

13 A. The interest leased in the coal estate with
14 the application was a hundred (100) percent.

15 Q. Now, subsequent to the filing of your
16 application, did you continue to attempt to reach an
17 agreement with any unleased respondents listed in the
18 original Exhibit B?

19 A. Yes.

20 Q. And as a result of these efforts, did you
21 obtain any additional leases?

22 A. Yes, we did.

23 Q. Could you point that out for the Board in
24

1 your Revised Exhibit B, which they now have a copy of?

2 A. Yes, on the Revised Exhibit B on page one
3 (1), Tract Number Five, Mr. Carl Phillips is now a leased
4 interest.

5 Q. Okay. So, at this time, at the time of the
6 hearing today, could you state for the Board the percentage
7 of the gas estate that is under lease to Equitable?

8 A. At the time of the hearing, the interest
9 leased to Equitable is 99.1 percent.

10 Q. So, that remains...so, that leaves .9
11 percent unleased within the gas estate?

12 A. That's correct.

13 Q. And as you stated earlier, the coal estate
14 is a hundred (100) percent leased?

15 A. Right.

16 Q. Mr. Baker, was...in your professional
17 opinion, was due diligence exercised to locate each of the
18 respondents named herein?

19 A. Yes, it was.

20 Q. And now are the addresses set out in the
21 Revised Exhibit B that you've just handed out the last known
22 addresses for the respondents?

23 A. Yes.

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1 Q. And are you requesting this Board to force
2 pool all the unleased interest listed in that Revised Exhibit
3 B?

4 A. Yes, I am.

5 Q. And are you familiar with the fair market
6 value of drilling rights within the unit here and in the
7 surrounding area?

8 A. Yes.

9 Q. Could you advise the Board as to what those
10 are?

11 A. A five dollar (\$5) per acre consideration, a
12 five (5) year term, one-eighth of eight-eighth royalty.

13 Q. Did you gain your familiarity with these
14 terms by acquiring oil and gas leases, coalbed methane leases
15 and other agreements involving the transfer of drilling
16 rights in the unit here and in the surrounding area?

17 A. Yes, I did.

18 Q. And in your professional opinion, do the
19 terms you've testified to represent the fair market value of
20 and the fair and reasonable compensation to be paid for
21 drilling rights within this unit?

22 A. Yes.

23 JIM KISER: Mr. Chairman and members of the Board,
24

1 at this time we would once again request that the testimony
2 regarding elections and the time periods for which the
3 unleased respondents to make those elections previously taken
4 in the hearing this morning with the docket number VGOB-98-
5 07/21-0672 be incorporated.

6 BENNY WAMPLER: That will be incorporated.

7 Q. Okay. Mr. Baker, do we need to
8 establish...does the Board need to establish an escrow
9 account here to...in the event of...because there's
10 conflicting complain to the coalbed methane in which the
11 operator will pay all costs or proceeds attributable to that
12 conflicting interest to where they will be held for the
13 respondent's benefit until such funds can be paid to the
14 party by order of the Board or until the conflicting claim is
15 resolved?

16 A. Yes.

17 Q. And who should be named the operator under
18 any force pooling order?

19 A. Equitable Resources Energy Company.

20 JIM KISER: No further questions of this witness at
21 this time, Mr. Chairman.

22 BENNY WAMPLER: Any questions from members of the
23 Board?

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1 MASON BRENT: Yeah, a couple questions, if I may.
2 BENNY WAMPLER: Mr. Brent.
3 MASON BRENT: This plat is very busy. You need a
4 Philadelphia lawyer to straighten it out for me. Can you
5 tell which tract the well is on, tract number which?
6 DENNIS R. BAKER: The well is actually situated on
7 the tract, or about the eastern third of the unit, if you
8 will look at like three o'clock, you will see the tract
9 number one designation.
10 MASON BRENT: Yeah. So, is it on Tract Number One?
11 DENNIS R. BAKER: Yes.
12 MASON BRENT: Okay. And that occupied dwelling is
13 on tract number one as well.
14 DENNIS R. BAKER: Yes, it is. The occupied dwelling
15 is approximately 278.39 feet from the well itself.
16 MAX LEWIS: Supposed to be...supposed to be three
17 hundred (300) feet.
18 TOM FULMER: Two-fifty (250).
19 MAX LEWIS: Two what?
20 MASON BRENT: Two-fifty (250)?
21 MAX LEWIS: Two-fifty (250)?
22 TOM FULMER: Two-fifty (250).
23 JIM KISER: But you...you can get consent obviously
24

1 to be even closer. I mean, there are wells within fifty (50)
2 (inaudible).

3 MASON BRENT: Yeah. Yeah. Is that private dwelling
4 a home? Do you know?

5 DENNIS R. BAKER: I believe it is, yes.

6 JIM KISER: And, I guess, probably for just general
7 information to help in the future, the way that we do the
8 plats for these wells, the number...the Tract Number One will
9 always be the drill site tract.

10 MASON BRENT: Oh, okay. That's all.

11 BENNY WAMPLER: Other questions?

12 (No audible response.)

13 BENNY WAMPLER: Call your next witness.

14

15 ROBERT A. DAHLIN, II

16 having been duly sworn, was examined and testified as
17 follows:

18 QUESTIONS BY MR. KISER:

19 Q. Mr. Dahlin, could you once again state your
20 name for the Board, who you're employed by and in what
21 capacity?

22 A. Robert A. Dahlin, II. I'm employed by
23 Equitable Resources Energy Company, as a Production

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1 Specialist.

2 Q. And your qualifications as an expert witness
3 in this area have previously been accepted by the Board?

4 A. Yes.

5 Q. And do your responsibilities include in the
6 land involved here and in the surrounding area?

7 A. Yes, they do.

8 Q. Now, are familiar with the proposed
9 exploration and development of this unit?

10 A. Yes, I am.

11 Q. And what is the total depth of the well
12 under the plan of development?

13 A. Two thousand eight hundred and ninety-five
14 (2,895) feet.

15 Q. And will this be sufficient to penetrate and
16 test the common sources as supplied in the subject
17 formations?

18 A. Yes.

19 Q. What are the estimated reserves of this
20 unit?

21 A. Three hundred and fifty million cubic feet.

22 Q. Are you familiar with the well costs for the
23 proposed well under the plan of development?

24

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1 A. Yes.

2 Q. Has an AFE been reviewed, signed and
3 submitted to the Board?

4 A. Yes.

5 Q. Was this AFE prepared by an engineering
6 department knowledgeable in the preparation of AFEs and
7 knowledgeable in regard to well costs in this particular
8 area?

9 A. Yes.

10 Q. In your professional opinion, does the AFE
11 represent a reasonable estimate of the well costs for the
12 proposed well under the plan of development?

13 A. Yes.

14 Q. Could you again please set out the dry hole
15 costs and completed well costs for VC-3759?

16 A. Dry hole costs in this case are ninety-three
17 thousand two hundred and sixty-two dollars (\$93,262), with
18 the completed well costs of one hundred and eighty-three
19 thousand three hundred dollars (\$183,300).

20 Q. And do these costs as represented by the AFE
21 anticipate a multiple completion?

22 A. Yes, it does.

23 Q. In your professional opinion, will the
24

1 granting of this application be in the best interest of
2 conservation, the prevention of waste and the protection of
3 correlative rights?

4 A. Yes.

5 JIM KISER: Nothing further of this witness at this
6 time, Mr. Chairman.

7 BENNY WAMPLER: Any questions from members of the
8 Board?

9 MAX LEWIS: Have you all took any measures for
10 noise?

11 ROBERT A. DAHLIN, II: Just as part of our safety
12 program. We have a safety engineer that complies with all of
13 the regulatory and, you know, intercompany policies. He has
14 taken measurements on all of our drilling rigs, all of our
15 compression units---.

16 MAX LEWIS: I know lots of times they have to put up
17 sound barriers and stuff like that when they drill close to
18 homes and stuff like that.

19 ROBERT A. DAHLIN, II: I'm not aware of anything
20 unusual we are doing in this case. I...just as a
21 side...around some of our compressor stations we do erect
22 walls or entire buildings.

23 MAX LEWIS: Yeah, I know that.

24

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1 ROBERT A. DAHLIN, II: Uh-huh. But I'm not familiar
2 with this particular location whether anything has been done
3 or negotiated with the surface owner or the owner of the
4 building. I don't know.

5 MASON BRENT: What did you say the estimated
6 reserves were on this?

7 ROBERT A. DAHLIN, II: Three hundred and fifty
8 million cubic feet.

9 MASON BRENT: Three fifty.

10 ROBERT A. DAHLIN, II: That's basically our economic
11 limit. This well is in an area very near Trammell where we
12 are now laying pipe and a compressor station to this area.
13 There is no production for at least a mile and a half or two
14 (2) miles from here. We've had one well drilled for three
15 (3) or four (4) years that's never produced. All we have are
16 well test in this case and this part of a joint venture that
17 is...its economic limits are set at three fifty and we feel
18 that it is a reasonable estimate, but it is only an estimate
19 in this case.

20 BENNY WAMPLER: Other questions?

21 (No audible response.)

22 BENNY WAMPLER: Do you have anything further?

23 JIM KISER: Mr. Chairman, we'd ask that the
24

1 application be approved as submitted.

2 MASON BRENT: Mr. Chairman, I'd move that we approve
3 the application.

4 DENNIS GARBIS: I second it.

5 BENNY WAMPLER: Motion and second. Any further
6 discussions?

7 (No audible response.)

8 BENNY WAMPLER: All in favor signify by saying yes.

9 (All members signify by a yes.)

10 BENNY WAMPLER: Opposed say no.

11 (No audible response.)

12 BENNY WAMPLER: Unaminaious approval. Thank you.

13 The next item on the agenda is a petition from
14 Equitable Resources Energy Company for pooling of a
15 conventional gas unit identified as V-3803. This docket
16 number is VGOB-98-07/21-0675. We'd ask the parties that wish
17 to address the Board in this matter to come forward at this
18 time.

19 JIM KISER: Mr. Chairman, Jim Kiser on behalf of
20 Equitable Resources Energy Company. We'd ask at this time
21 that this particular docket item be continued until the
22 August docket.

23 BENNY WAMPLER: It shall be continued. Thank you.

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1 Did you get with the gentlemen that was here...off the
2 record.

3 (Off record.)

4 BENNY WAMPLER: The final item on today's agenda,
5 the Board on its own motion will consider further hearings on
6 units NELW10, NELW9, SLW5, SLW7, SLW6, SLW8 and Unit R-25 for
7 amending supplemental orders and disbursement of funds and
8 we'd ask the parties that wish to address the Board in this
9 matter to come forward at this time, please.

10 JILL HARRISON: Mr. Chairman and members of the
11 Board, I'm Jill Harrison. I practice here in Abingdon at
12 Penn Stuart. I've been before you a number of times dealing
13 with these units not only for Hugh McRae and Garden Reality,
14 but also for Hugh McRae, Consol and PGP. Mrs. King had said
15 that she and her sister Ann would be here today and I know
16 that they are driving up from Winston Salem. So, I'm very
17 surprised that they are not here. But I had no message
18 whenever I left the office a few minutes before nine. So,
19 they may come in just a few minutes, but I don't think that
20 they would want to hold up the proceedings.

21 MASON BRENT: I'm in favor of taking a five (5) or
22 ten (10) minute recess.

23 BENNY WAMPLER: Okay. We can do that.

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1 MAX LEWIS: Yeah.

2 BENNY WAMPLER: We will do that. We will take a ten
3 (10) break.

4 (Break.)

5 JILL HARRISON: Thank you first of all for your
6 waiting for Mrs. King to arrive safely, this we are glad to
7 see, and I really have no comments at this point to make
8 because I know that Miss Riggs had put this on for the
9 Board's motion.

10 SANDRA RIGGS: I'd just like to review some history
11 because I don't know that all of you have been here for every
12 one of the hearings that have transpired with regard to this
13 particular set of applications. But it goes back for over a
14 year's period of time. I think this process started, what,
15 in March of '97 or thereabouts? And what prompted the
16 process was certain coal owners and gas owners within seven
17 (7) drilling units reached an agreement with each other that
18 rather than waiting for resolution of the conflicting claim
19 issue, that they desire to enter into a settlement agreement
20 resolving their conflicting claims within those seven (7)
21 units basically on a fifty/fifty split, but there were a lot
22 of details related to the settlement.

23 And they came before the Board at that time and
24

1 said, we have reached this agreement and based upon on your
2 authority and the Gas and Oil Act that says upon resolution
3 of conflicting claims that you can...we ask that you disburse
4 those funds within these drilling units, attributable to our
5 common interest, to us. And the Board approved that action
6 and ordered the operator and the escrow agent to account for
7 funds on deposit so that an order could be entered. And I
8 think the way those original orders were set up, it wasn't
9 anticipated at that time that there would be any problem and
10 that was the operator would report how much money they had
11 put in to the account attributable to those interests; the
12 escrow agent would report how much total was on deposit; and
13 if there was no dispute as to any of that, then automatically
14 that interest would get disbursed. Well, the accountings
15 came in and there was a dispute as to the amount the operator
16 said was put on deposit.

17 So, at that point it came back for further hearings
18 before the Board. Now, Jill, if at any point, I have the
19 facts here crossed, just feel free to step right in and...but
20 my recollection is that it came back on for hearing before
21 the Board for further accountings because...and that was the
22 hearing that took place, I was present at it, but I think it
23 took place in Grundy or in...where was it, Benny?

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1 BENNY WAMPLER: I believe we were in---.

2 SANDRA RIGGS: Tom Mullins and Mark Swartz appeared
3 before you and they were in dispute with respect to what kind
4 of information had to be provided. And Tom Mullins, then
5 representing the applicants, said that he wanted information
6 that would normally be set forth in a royalty statement,
7 given to royalty owners. So, the Board again ordered further
8 accountings and amended...amended the prior disbursement
9 order and required further accountings.

10 In the meantime, I went to the escrow agent and
11 said to the escrow agent, when you get the check in here for
12 deposit into the account, what kind of accounting information
13 do you get. And the reason I did that is because at the
14 hearing, the attorney for the operator stated that they
15 forwarded attached to the check as back up, some sort of
16 royalty statement. Well, at that point, it became clear that
17 they are not mailing the royalty statements out to the
18 conflicting claims, but they were attaching a copy to the
19 check and sending it to the escrow agent.

20 So, I went to the escrow agent and I said, give me
21 any back up files that you have on these seven (7) drilling
22 units. I brought those files in to the office; went through
23 them as best as I could; separated out those that pertained

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1 to the particular tracts; made copies of them; sent those
2 over to Tom Mullins, who was representing the applicants and
3 said, is this the kind of information you are looking for.
4 He wrote me back and said, yes, but I don't want it from you,
5 I want it from the operator because the order says the
6 operator has got to give it to us, not you. And I said,
7 well, this is what we found on file as back up.

8 Now, obviously when the escrow agent gets that
9 information in, they just take it off the back of the check
10 and put it in a back up file, but they are not tracking
11 within the escrow account the breakout of that check. I
12 mean, they take the check, they deposit it into the account
13 and they stick that statement into the file. So, the escrow
14 agent has those statements on file and those have been
15 provided to the applicants here.

16 So, this went on for a long period of time where
17 there was a dispute back and forth with respect to the type
18 of accounting information that should be provided, and in
19 what form it should be provided, in order for the applicants
20 to be able to determine, or satisfy themselves of how much
21 money they had on deposit and for this Board to be able to
22 satisfy itself as to how much to order to be disbursed. And
23 that's basically where we are. In the second round of

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1 accounting, we never did get the accounting from the operator
2 until a week ago, I guess, it was. I was over...and that box
3 right there on the table got delivered and I have gone
4 through that box and I can not figure out the accounting
5 process. There's a note on the top that says a decoder will
6 follow and I don't have the decoder, if that's what it is
7 going to take. But even in the absence of the decoder, you
8 know, I just don't know how we can sit down, from the
9 information that we have, and figure out how much money to
10 order disbursed out of that escrow account, and how we
11 protect the Board against the possibility of other claimants
12 within the drilling unit later coming in and contesting
13 that...that amount. I mean, that's the concern here. How do
14 we resolve this disbursement issue? What form does the
15 accounting information have to take? Who has to certify to
16 it and how do we get this number tied down?

17 BENNY WAMPLER: Well, the Board...you know, I would
18 say this, the Board's rules and regulations require detailed
19 accounting by the operator...by the designated operator and
20 it requires that detailed accounting to be provided on the
21 order of the Board. We have ordered that and it has not been
22 provided. It is certainly not in a form that we can tell
23 anything about. And I personally don't believe and I

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1 may...as Chairman may be talking out of turn, but I'm just
2 going to go ahead and share a few things. I do not believe
3 that it was ever contemplated that this Board would pore over
4 boxes of records and try to make a determination as to
5 whether or not a company has maintained those records in such
6 a manner that they could be reconciled back to any
7 disbursement. Because you don't have control over when they
8 were deposited, whether they deposited it on time, you know,
9 where they maintained by tract and all of those various
10 things. So, I think what we need from the operator is that
11 they certify as to the accuracy of all of the records that
12 they produce and a number acceptable to the applicant and
13 that they hold harmless the Board on that certification and
14 disbursement should there be a future claim back to that so
15 that they would maintain responsibility for it, whoever the
16 operator is. Not just in this case, but I believe that
17 personally that that's the way it ought to be. Now, I don't
18 know how you feel about it.

19 MASON BRENT: At this point, there still is no
20 agreement between the applicant and the operator as to what
21 the right numbers are?

22 JILL HARRISON: Well, mainly because we haven't seen
23 anything from the operator that is understandable. I've

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1 looked through these records briefly and there is no
2 reference to a unit, there's no reference to a tract, there's
3 no reference to a docket number. It's just a date, a check
4 number and an amount.

5 MASON BRENT: I hope the message will get back to
6 Mr. Swartz that the Board is really not impressed with this
7 response.

8 BETTY (BOYD) KING: I think Mr. Swartz knows that.
9 I know...I know Consol knows it because I have called them.
10 I called them when Miss Harrison...when Miss Harrison called
11 me and told me that just a great big box came in and I called
12 Les Arrington and then he was to call Mark Swartz. I think
13 they are fully aware that they are not---.

14 BENNY WAMPLER: We've talked with them. But I'll be
15 pleased to write a letter on behalf of the Board expressing
16 displeasure with this. Mr. Garbis?

17 MASON BRENT: I appreciate that.

18 DENNIS GARBIS: Well, if you look at..as an example,
19 this Exhibit B, in each of these exhibits that I have been
20 seeing now the four (4) years that I have been involved in
21 the Board, it has this...the gas estate, the coal estate, I
22 mean, it is not that everything is not specifically spelled
23 out. It's inconceivable to me that a business would not have

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1 proper accounting by well. They know how much each
2 particular well is producing.

3 MAX LEWIS: Oh, yeah.

4 DENNIS GARBIS: They...I could assure you, they know
5 how much money to the penny, if they are not, they are not
6 going to be in business very long. You have to account for
7 every nickel that's coming in and every nickel that's coming
8 out. And I think that it is wholly incumbered upon the
9 operators to be able to give an accounting down to the penny.
10 They have to. I mean, there's no...I don't know how
11 they...there's...and to present us with something like that.
12 Regardless of what internal problems they have, I'm really
13 not interested in their internal problems. We don't need to
14 get involved in their internal problems. They...they
15 need...they need to get their act together and get this thing
16 so that on a consistent basis, that...even in the complaint's
17 part, I think if they are...I think they need to send out a
18 statement every month, if for no other reason, than just to
19 keep...that way nobody can come back and say, well, you know,
20 you didn't get this, that and the other. That's like in my
21 business, I mean, on...for people that rent apartments from
22 me on a monthly basis or on current basis, we send out
23 statements. That way if there's any problem, somebody can
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1 come up and say, hey, I disagree with this or don't agree
2 with it and that way somebody can't say we...you are not
3 being informed of what...at least up to this point
4 potentially could be an account for your...under your name.
5 But this...I mean, it has to go back to this document that I
6 have seen is with every application. They know what the
7 percentages are. They know who has signed up with the lease
8 and who has not and that's got to be the basis. That's
9 the...how else could you attract...you can't account for it
10 other than by going back to the original document and---.

11 SANDRA RIGGS: I think the problems have arisen by
12 different practices being used by different operators. Some
13 operators name all claimants within the drilling unit. Some
14 only name unleased claimants. Some operators escrow only
15 unleased conflicting claims. Some operators escrow all
16 conflicting claims. So, you've got inconsistency between the
17 way the operators are preparing these statements to begin
18 with. On top of that, what compounds it in this situation is
19 that both of these parties were leased to the unit operator.
20 They were not compulsory pooled in the sense that the
21 statute says that everybody is pooled. But they...they
22 entered into voluntary agreements with the operator,
23 voluntary leases. And under those leases, as I understand

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1 it, and we are not privy to those leases so we don't really
2 know, but as I understand it, it gave the operator the right
3 to suspend payments until such time as title was proven or
4 whatever and that's probably a standard lease. I don't know
5 that.

6 JILL HARRISON: Well, ours...ours is to place into
7 escrow into an interest bearing account.

8 SANDRA RIGGS: Okay. Well, the lease terms vary and
9 without having the lease, you don't know. But the operator
10 is sitting there and in some instances is saying, no, our
11 lease gives us the right to internally suspend payments so we
12 don't have to put it into escrow. Others are saying all
13 conflicting claims are going into escrow, regardless. I
14 think the word has been put out, at least informally. The
15 statute says all conflicting claims and that's what it means.
16 So, now suddenly, you have operators cutting checks for
17 monies they have been a holding in-house and dumping into the
18 escrow accounts. Well, now, if you have an escrow account
19 that was established five (5) years ago, and those people's
20 monies have been earning interest and now suddenly this
21 deposit comes in, you can't take percentage interest in the
22 drilling unit and apply it to the total anymore because
23 you've got to compute the interest from the time of deposit.

24

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1 Not---.

2 MAX LEWIS: Uh-huh.

3 DENNIS GARBIS: That's right. That's right.

4 SANDRA RIGGS: ---not on the whole. So, that has

5 fouled up our ability to take just a percentage and apply it

6 to the amount on deposit. If you have a hundred (100)

7 percent on deposit and you knew what the interest in the

8 drilling unit was, it would be a mathematical calculation.

9 BENNY WAMPLER: But...you know, I contend it

10 shouldn't...it's not up to us to worry about that either. I

11 mean, I agree with Dennis a hundred (100) percent. That's

12 the operator's responsibility.

13 DENNIS GARBIS: Absolutely. Absolutely.

14 BENNY WAMPLER: I mean, they are in business

15 to...and that requires them to do that.

16 DENNIS GARBIS: That is part of it...just...I mean,

17 in all of these hearings, the operator has come before us and

18 it's just implied that there has to be an accounting because

19 why do they go through all of this trouble of sending out

20 return receipt requested and certified mailing to try to

21 specifically try to locate each of the owners for the

22 specific reasons so you can have a breakout.

23 SANDRA RIGGS: Well, so that they can get that

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1 interest under lease through the compulsory pooling and then
2 their position is, once they cut the check and deposit with
3 the escrow agent, that's the same as paying it out to these
4 folks and that...and they're done.

5 MAX LEWIS: That should be our responsibility to see
6 that they do it.

7 BENNY WAMPLER: Right.

8 MAX LEWIS: That is our responsibility.

9 DENNIS GARBIS: Well, we are concerned---.

10 BENNY WAMPLER: That sure is.

11 BETTY (BOYD) KING: Well, that's where we are.

12 DENNIS GARBIS: ---well, what concerns me---.

13 BETTY (BOYD) KING: Who is...isn't it---?

14 DENNIS GARBIS: ---excuse me, ma'am, is that
15 apparently you are telling me that some operators have
16 arbitrarily have chosen to internally escrow and I don't
17 think...that's not healthy. I...that---.

18 SANDRA RIGGS: Well, they are relying on the rights
19 granted to them through these voluntary leases. So, I
20 wouldn't...I wouldn't characterize it as arbitrary. They are
21 saying...and the statute does say that you can't contravene
22 contractual rights, and they are saying they have a
23 contractual right through their lease to do that and that

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1 issue has never been litigated. I don't know how the statute
2 would ultimately be construed, but it says all conflicting...
3 our statute says all conflicting claims. And the presumption
4 was always that all conflicting claims were going to be
5 escrowed. It wasn't until this happened that we even
6 discovered that they weren't being escrowed.

7 BENNY WAMPLER: Right.

8 SANDRA RIGGS: See, this accounting has opened all
9 of this up because suddenly when you get the accounting
10 you---.

11 DENNIS GARBIS: Well, I don't think the law would
12 take priority over...I mean, I think that somehow needs to
13 get sorted out.

14 MAX LEWIS: There needs to be a uniform thing...one
15 thing.

16 TOM FULMER: One of the---.

17 DENNIS GARBIS: And there has to be some...Max is
18 right. There has to be some uniformity.

19 MAX LEWIS: Yeah, for all companies to---.

20 TOM FULMER: I want to mention a fact here
21 that...some background information. (Inaudible) Consol,
22 well, Consol, Inc. and Pocahontas Gas Partnership are two (2)
23 different entities.

24

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1 SANDRA RIGGS: Right.

2 TOM FULMER: And they have two (2) different

3 accounting systems and they're not doing the same accounting

4 on Consol's side as they are on PGP's side. Conoco is doing

5 Conoco, partner of GCP, is doing the accounting.

6 BETTY (BOYD) KING: Well, now we are getting...us,

7 we are getting good accountings from the ILM systems. That's

8 a Buchanan Production Company.

9 TOM FULMER: ILM.

10 BETTY (BOYD) KING: Now, they send us good

11 accountings every month.

12 MASON BRENT: What do those accountings include?

13 BETTY (BOYD) KING: They include what percentage it

14 was, what...how many of...what is it?

15 JILL HARRISON: MCF.

16 MAX LEWIS: MCF.

17 BETTY (BOYD) KING: Yeah, MCFs. All of it.

18 SANDRA RIGGS: It's a typical royalty statement,

19 which is what I called previously and sent...sent to Tom

20 Mullins who previously represent...it's the kind of

21 information that they deposit with the escrow agent with the

22 check, I think, is probably what you're getting.

23 BETTY (BOYD) KING: Yes...yes.

24

1 SANDRA RIGGS: The problem here is when we
2 talk...that's not the problem, I mean, it's just a fact,
3 Consol, Inc. is the operator. But you have Buchanan
4 Production who, in some cases was the applicant, and
5 Pocahontas Gas Partnership in other situations is the
6 applicant. So, even within the Consol group, you've got two
7 (2) different entities doing the accounting for Consol, the
8 operator, and on one side it's fine and on other the side
9 it's not. I mean, that's basically appears to be what is
10 happening now. It is the PGP units that we are getting this
11 kind of information back on.

12 MASON BRENT: Well, my position on it is this thing
13 has just gone on too long to the point where it is just
14 really irritating. And Mr. Chairman, I...your suggestion, I
15 think is a good one, that we require that they produce
16 something that is understandable and makes sense and that
17 they certify that it's correct and that they are liable for
18 any...any---.

19 SANDRA RIGGS: If you will look in the package Tom
20 just gave you, the latest order we gave them is the one
21 that's under relief sought. It says further accountings.

22 BENNY WAMPLER: Yeah, you know, I contend that...and
23 we just wanted to bring it here, but they're in violation of

24

--

1 that order of the Board because they---.

2 MASON BRENT: Well, and that's what, you know, I was
3 going to finish up by saying, you know, if any...if any
4 disciplinary authority we have that we can invoke, we ought
5 to be doing that.

6 DENNIS GARBIS: Mr. Chairman.

7 BENNY WAMPLER: Mr. Garbis.

8 DENNIS GARBIS: Is it within our purview to actually
9 specify the format? In other words, I think there needs to
10 be some un...it has to be uniformly for everybody.

11 MAX LEWIS: Yeah, the same.

12 DENNIS GARBIS: Because this problem is going to
13 get...you know, compound itself as time goes on. Is it
14 within our purview to establish and set a uniform accounting
15 system, if you will? I'll use that term loosely. I mean, we
16 don't want to dictate...we don't want to micro manage
17 somebody's affairs. But I think because of the complexity of
18 this, unless there is a common denominator and something
19 common, that's just going to be a part of doing business that
20 each operator will have to understand that's required if they
21 are going to work within the Commonwealth. I don't see any
22 other way to do it.

23 MAX LEWIS: We would have to set a standard policy

24

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1 for everybody.

2 BENNY WAMPLER: We would have to promulgate...we
3 would have---

4 SANDRA RIGGS: Regulations.

5 BENNY WAMPLER: ---to do it by regulation. We have
6 a Board regulation right now that specifies that they are to
7 maintain accurate and complete records. It doesn't dictate
8 as to how they would do that. But that's how we would have
9 to go about it. We would have to hold...put a work group
10 together and start the process.

11 DENNIS GARBIS: And really, I'm looking out for the
12 interest of the...you know, the people. I mean, to have
13 their protection for the---.

14 MAX LEWIS: They ought to amend that rule there and
15 put the satisfaction of the Board. I mean, you know,
16 just---.

17 JILL HARRISON: The order itself, the ones that has
18 been entered for this specifically, says that they must
19 account for all funds deposited, which, you know, if you have
20 a listing of the deposits and when they were made, that's
21 really the basic information that we need---.

22 BENNY WAMPLER: Right.

23 JILL HARRISON: ---because we have the percentages
24

1 from the orders.

2 BETTY (BOYD) KING: Do you think they just don't
3 understand because each time that I call and talk to Mr.
4 Arrington, or to Bob Looney or any of them, you know, they
5 will say, Miss King, we've done such and so, we've done the
6 supplemental order. And when I call Mr. Arrington, he said,
7 we've given all the information that we have to them. I
8 mean, he...my impression after I have talked with them up
9 there, is that they are kind of in Alice in Wonderland. They
10 think they...they think they are complying. They are
11 wondering why---.

12 BENNY WAMPLER: Well, here...I'll tell you what I
13 think it is although I don't know without having them here,
14 but what I think it is, is I think we have a classic dispute
15 of the role of the operator versus the role of the Board's
16 escrow agent. I believe that the operator in this case, or
17 operator's, can...are...are contending without straight
18 forward contending and I'm just saying they are not here to
19 contend this, but it appears to me that they are contending
20 that out...that the Board's escrow agent is responsible for
21 having the records that are needed to make this disbursement.
22 Okay, that's what I believe is going on. I think we have
23 the...the---?

24

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1 DENNIS GARBIS: How could they do that?

2 BENNY WAMPLER: ---the battle line here, I believe,
3 is drawn between where does the operator's responsibility end
4 and when does the escrow agent's responsibility take over.
5 My view is, and certainly the way that our contract is
6 written with the escrow agent, is that the escrow agent is a
7 depositor of the funds that are sent in by the operator.
8 They have no means of knowing whether or not those funds are
9 accurate, whether or not there is proper accounting for those
10 funds, they can only deal with the day they received those
11 funds and how much interest those funds incurred.

12 MASON BRENT: Isn't the statute pretty clear on
13 that?

14 BENNY WAMPLER: Yes, it is, it's very clear on that.
15 But I'm just recalling---.

16 DENNIS GARBIS: I mean, that's not an escrow agent's
17 job.

18 BENNY WAMPLER: ---when Mr. Swartz was saying, well
19 your escrow agent should have that information.

20 DENNIS GARBIS: No.

21 BENNY WAMPLER: And that they have all of the
22 information that you all would need to do that and that, you
23 know, that's the line we are drawing is where does that
24

1 responsibility reside.

2 MASON BRENT: It just...it just seems to me...is
3 just seems to me that this Board just needs to take a firmer
4 position on this thing to the extent---.

5 TOM FULMER: Mr. Chairman, in regards to Miss King's
6 statement, I will tell you this that what happens is, yes,
7 Les Arrington and the Consol bunch do send this stuff up, but
8 they send it up to Conoco and when Conoco is doing the
9 accounting out in Pocano, Oklahoma. So, they do send that
10 information up and what's the problem here is all of the
11 accounting is coming from Conoco from Pocano, Oklahoma. And
12 how they do their accounting system, I have no idea.

13 DENNIS GARBIS: Do you know what my response is? I
14 don't care. I'm not interested.

15 BENNY WAMPLER: Yeah, I mean---.

16 DENNIS GARBIS: I mean, that's their internal
17 problem.

18 TOM FULMER: Well---.

19 DENNIS GARBIS: I understand, but I don't as far as
20 a matter of solving the problem, that complicates it and
21 again I think the Board needs to look at it from micro level
22 of fixing the problem...the immediate problem we have and any
23 future problem, because I think it's somewhat disturbing to

24

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1 me that this...and I think it also needs to be addressed,
2 this self-escrowing. Not that I don't trust anybody, I just
3 don't trust anybody, politically incorrect or not.

4 JILL HARRISON: Well, we have...they have given us
5 at various times, these little charts that have a unit number
6 and an amount.

7 DENNIS GARBIS: May I see that, please?

8 JILL HARRISON: Yes, sir. Uh-huh.

9 BETTY (BOYD) KING: But to me it means nothing.

10 JILL HARRISON: Well, the problem is that we've...
11 it's just like if you get a checking statement on your own
12 checking account at the end of the month and it has a figure
13 and it doesn't show the deposits that have been made and the
14 checks that you have written. You don't know how that amount
15 came about and I think that's the concern that Garden Realty
16 and Hugh McRae have.

17 SANDRA RIGGS: Well, in reading the statute under
18 the settlement authority, let's see what triggers a
19 disbursement by the Board. I think it's under 22. " The
20 Board shall order payment of principal and accrued interest
21 from the escrow account to all persons legally entitled
22 thereto pursuant to the provisions of the pooling order and
23 the order of the Board. Such order shall be issued within
24

1 thirty (30) days of receipt of notification of the final
2 legal determination of entitlement---." It means entitlement
3 to the escrow account.

4 BENNY WAMPLER: Right.

5 SANDRA RIGGS: "---or upon agreement of all the
6 claimants." Now, when they came before us, they said we have
7 agreed as to our percentage interest in the drilling unit.
8 But what they have not agreed to is to their entitlement to
9 the escrow account and that's the broad link we've got to
10 make.

11 BENNY WAMPLER: Right.

12 JILL HARRISON: And that's only because we have not
13 been provided with the information sufficient to allow us to
14 make a decision is the bottom line.

15 SANDRA RIGGS: Well, the prior stuff that I sent you
16 that was from the escrow agent's account, have you reviewed
17 that? Do you know, is that what you are looking for?

18 JILL HARRISON: All...do you mean like this?

19 SANDRA RIGGS: The roy...I sent a package about like
20 that to Tom Mullins.

21 JILL HARRISON: If...I have not gotten anything from
22 Mr. Mullins. I do not have privy to that information.

23 SANDRA RIGGS: My understanding was that...is the
24

1 royalty...like if you were not a conflicting claimant, but
2 you were getting your check direct, that would be the backup
3 document with your check that would come each month. Now,
4 here, they weren't sending it out to conflicting claimants,
5 they were sending it to the escrow agent. So, I went to the
6 escrow agent and I pulled all---.

7 JILL HARRISON: I understand.

8 SANDRA RIGGS: --- of those and went through on your
9 particular tracts---.

10 JILL HARRISON: Right, I understand that.

11 SANDRA RIGGS: ---and copied all of that and sent
12 it to him.

13 JILL HARRISON: Right.

14 SANDRA RIGGS: It may be that if you have that
15 information as to these particular units, that would, you
16 know---.

17 JILL HARRISON: So, we would have to...again, it
18 would not be the operator, it would be the individual owners
19 who would have to take the information and go through it and
20 then we would have to come back to the Board and say based on
21 these royalty statements---.

22 SANDRA RIGGS: It doesn't total. All it does is
23 give you how they came to that number on that...on this sheet

24

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1 here, I think.

2 JILL HARRISON: And that's...that's from last year,
3 I believe.

4 MAX LEWIS: It doesn't give you the bottom line,
5 does it?

6 SANDRA RIGGS: It does not give you the bottom line
7 and it wouldn't tell you the interest that's accrued. It
8 would only tell you---.

9 BETTY (BOYD) KING: We don't even know the interest.

10 SANDRA RIGGS: Well, and we can't calculate the
11 interest until we know the date of deposits because they---.

12 JILL HARRISON: Well, if I were to go through that
13 information and to make a chart...I mean, I want to do
14 anything I can to help Garden Realty and Hugh McRae---.

15 SANDRA RIGGS: Well, that's---.

16 JILL HARRISON: ---get their money.

17 SANDRA RIGGS: Exactly.

18 JILL HARRISON: If I get that information from Mr.
19 Mullins, and I go through it, and I can come up with a time
20 line of when deposits were made...I mean, I'll be glad to do
21 that with authorization from my client to do so. But the
22 bottom line is that is not going to get the job done. I
23 mean, I'll be glad to do it if you believe that that would
24

1 aid the Board in going through that information.

2 MAX LEWIS: I think the Board is going to have to do
3 it their self.

4 MASON BRENT: I think the...I mean, we designate
5 these operators and---.

6 MAX LEWIS: Yeah.

7 MASON BRENT: ---I think the operators---.

8 BENNY WAMPLER: That has to mean something.

9 MASON BRENT: It has got to mean something.

10 BENNY WAMPLER: I mean, the operators has to have
11 responsibility.

12 MAX LEWIS: Right.

13 MASON BRENT: Yeah, if they want us to designate
14 them as operator, then they had better act like operator.

15 BETTY (BOYD) KING: Garden Realty---.

16 DENNIS GARBIS: Operator means paperwork just as
17 much as going out there and drilling the whole in the ground.
18 I mean, that's---.

19 BENNY WAMPLER: That's right.

20 JILL HARRISON: Miss King had just a few thoughts
21 she wanted to share with the Board, if that's all right.

22 BETTY (BOYD) KING: Garden Realty and Hugh McRae, we
23 are caught right in the middle of this. You know, we
24

1 can't...nothing can be done. That money is in escrow. Some
2 of us could surely use the money if we could just get...and I
3 have talked to Allen Siegel in New York, who is the attorney,
4 and he is of the same opinion that Garden Realty is, that
5 time is, you know, going fast for some of us and he suggested
6 that maybe a partial distribution of the funds could be
7 distributed.

8 SANDRA RIGGS: Well, certainly if we knew the total
9 of the principal deposits and we, you know, if they would
10 just certify to that, we could disburse the principal and
11 then if we had the list of the dates of those deposits, then
12 the escrow agent can calculate the interest. I mean---.

13 DENNIS GARBIS: Weren't they depositing...they
14 should be depositing every month. Aren't deposits made every
15 month?

16 SANDRA RIGGS: When production is---.

17 JILL HARRISON: Some of the orders are every
18 quarter. Some of the pooling orders say every month and some
19 of the pooling order say once a quarter.

20 SANDRA RIGGS: Well, it depends on whether they were
21 the old, old, old poolings---.

22 JILL HARRISON: Right, but some of them are.

23 SANDRA RIGGS: ---they are all consistent for the
24

1 past...yeah.

2 BENNY WAMPLER: Yeah.

3 JILL HARRISON: Some of them are.

4 BETTY (BOYD) KING: Is this...is this that is in the
5 escrow account, are they still putting into the escrow
6 account? They are mailing to me now checks.

7 JILL HARRISON: Yeah.

8 SANDRA RIGGS: Exactly. Once we entered this order
9 acknowledging your settlement agreement, we authorized them
10 to start paying you direct. Then it just became an issue of
11 disburse...so there is a stop date---.

12 BETTY (BOYD) KING: Why?

13 SANDRA RIGGS: ---when no more money should be
14 going in...for your interest---.

15 BETTY (BOYD) KING: Right.

16 SANDRA RIGGS: ---there's still money going into
17 the account, but for other interest---.

18 BETTY (BOYD) KING: Right. Right.

19 SANDRA RIGGS: ---within the drilling unit.

20 BETTY (BOYD) KING: But the Hugh McRae and the
21 Garden Realty is settled. If we could---.

22 JILL HARRISON: Right.

23 SANDRA RIGGS: Right. So, they ought to be able to
24

1 liquidate up to that date how much---.

2 BETTY (BOYD) KING: Right.

3 SANDRA RIGGS: ---now, see, when this accounting
4 was given, they were still continuing to deposit, and there
5 were deposits made into the account attributable to your
6 interest after that date. So, we had to have a stop date.
7 Remember, on all of these we said what is the stop date, and
8 then we authorized them from that date forward to pay direct,
9 and then to account as of that date as to what was put into
10 escrow.

11 BETTY (BOYD) KING: Well, I would encourage the
12 Board to do...to help us in some way because this...it's
13 costing us money in attorneys fees and traveling and the
14 worry, you know, of calling that when I hear something that I
15 think that I can call to them, I call them. I call
16 (inaudible) and it's worrisome, and we would like to have
17 some final point to it if we could. And if we could, I would
18 agree, too, that I think...if we could...if you could
19 disburse part of it. Keep part of it back in there while we
20 are still having this struggle with them. And does the Board
21 have any legal right to demand that they give us this correct
22 accounting?

23 BENNY WAMPLER: We've done that.

24

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1 SANDRA RIGGS: We did that.

2 BENNY WAMPLER: We've done that.

3 BETTY (BOYD) KING: Well, but they didn't do it.

4 BENNY WAMPLER: That's right.

5 BETTY (BOYD) KING: Now, we need to do something
6 else, don't we?

7 BENNY WAMPLER: Now, we're taking the re...that's
8 exactly what we are doing. That will be the next step.

9 BETTY (BOYD) KING: Impose a penalty or---.

10 BENNY WAMPLER: There will be...there will be a
11 violation written for violating the Board order. There will
12 be a letter that we have already talked about and maybe other
13 actions depending on how far this goes. But, you know, that
14 is where we are. We...you know, we certainly don't have an
15 amount to be able to order anything on it at this point and
16 time, but we have ordered them to produce that. They have
17 not done that to our satisfaction, at least. They produced
18 records, but no one knows...we don't even have the code that
19 they say that we have to have to understand it. Anything
20 further from members of the Board on this?

21 DENNIS GARBIS: Well, what are we going to do? I
22 mean, we need to...how...there is several issues. I mean,
23 there is your immediate pressing issue and then there is also
24

1 the bigger problem on how that gets fixed.

2 BENNY WAMPLER: Well, a couple of things we have
3 talked about doing. We've agreed we've got a violation of
4 the Board order, is that correct?

5 MAX LEWIS: Uh-huh.

6 BENNY WAMPLER: Tom will issue a notice of violation
7 on behalf of the Board to them for that. I will write them a
8 letter expressing our displeasure with this and stipulate
9 several things we have discussed here today.

10 MAX LEWIS: What do we need to do about the uniform
11 bookkeeping and---?

12 BENNY WAMPLER: We have to separately, not regarding
13 this case, but we have to separately then, if the Board
14 decides it wants to initiate rule making, we have to, you
15 know, initiate rule making as a separate method for it.

16 DENNIS GARBIS: We need to do that.

17 MAX LEWIS: We need to do that.

18 BENNY WAMPLER: You all agree that...everybody is
19 agreement?

20 DENNIS GARBIS: I think so. I agree with it.

21 MAX LEWIS: Yeah.

22 MASON BRENT: I'm not sure that I agree with that.

23 BENNY WAMPLER: Do you want to put that on next

24

1 month's agenda to discuss---?

2 MAX LEWIS: Uh-huh.

3 BENNY WAMPLER: ---whether we initiate rule making?

4 MAX LEWIS: There is going to have to be some set

5 policy...set policy that everyone...all go by. The same---.

6 BENNY WAMPLER: Well, that's the only way we can do

7 it---.

8 MAX LEWIS: ---the same...they same way.

9 BENNY WAMPLER: ---is through rule making.

10 MAX LEWIS: Yeah.

11 MASON BRENT: I think that we ought to have more

12 representation when we take that issue up. I mean, I don't

13 think that it's going to help in this case because you are

14 looking long term to get that---.

15 DENNIS GARBIS: Yeah.

16 BENNY WAMPLER: Right.

17 MASON BRENT: ---that done.

18 MAX LEWIS: It's going to help down the road.

19 JILL HARRISON: There are more coming. There are

20 more units.

21 SANDRA RIGGS: There's thirteen (13) more are---.

22 JILL HARRISON: No, I mean, beyond that.

23 SANDRA RIGGS: Oh.

24

1 BENNY WAMPLER: Oh, I'm sure, yeah. There's a lot
2 of them.

3 JILL HARRISON: I've...I've got more coming.

4 SANDRA RIGGS: Well, I suspect we will get
5 cooperation on those because it is Consol's money, is it not?

6 JILL HARRISON: Yes.

7 SANDRA RIGGS: So, they are the applicant in those
8 cases. So, I am not as worried about those as I am these.

9 DENNIS GARBIS: I would like to try to make...get a
10 consensus and make a decision rather than postponing it for
11 thirty (30) days. I mean, I don't...I don't see that things
12 are going to be that much different now that we have a major
13 problem, we have a gap, obviously. We...I think it is
14 incumbent upon the Board to at least begin to look at this
15 and get some smart people together to look for a solution.

16 BENNY WAMPLER: Okay, how about...how about this
17 then if...well, go ahead. I didn't want to cut you off.

18 DENNIS GARBIS: I'm sorry?

19 BENNY WAMPLER: Did I cut you off on what---?

20 DENNIS GARBIS: No, no, no. I just don't want to
21 wait thirty (30) days.

22 BENNY WAMPLER: We could have Tom present to us next
23 month a listing of who would be on a work group for the Board
24

1 to consider and, you know, we would be doing...because it
2 will take some time to do that to decide who needs to be on
3 the work group and set out---.

4 DENNIS GARBIS: I think we will generate some
5 discussions, right?

6 BENNY WAMPLER: ---set out a time table and
7 generate some discussions, set out a time table to
8 what...what rules we would initiate rule making on...you
9 know, just really narrow it down or open it up, depending on
10 what that discussion lead to. Does that make sense?

11 MAX LEWIS: Make it simple as you can.

12 MASON BRENT: I think that's fine. I think that's
13 fine.

14 DENNIS GARBIS: Yeah.

15 BENNY WAMPLER: We will set that for the agenda next
16 month, Tom.

17 MASON BRENT: What kind of time frame can we impose
18 upon them on this?

19 BENNY WAMPLER: Well, we've already got a violation.

20 BETTY (BOYD) KING: I don't think they got---.

21 SANDRA RIGGS: Well, I had...I had the conversation
22 with Mark Swartz where I said, you know, this has got to be
23 resolved, and it looks like the way it is going to get
24

1 resolved is, you are going to be ordered to certify to the
2 Board how much you put on deposit attributable to this
3 interest and you are going to agree to indemnify and hold the
4 Board harmless from any damages down the road that it incurs
5 if you are wrong and he said, I'm surprised you haven't asked
6 for that already, which is somewhat of a hundred and eighty
7 (180) from where he was with Tom Mullins at the hearing you
8 all had previously on this. But I think that is where you
9 are going end up.

10 DENNIS GARBIS: Well, let's go for it.

11 BENNY WAMPLER: Well, that violation should include
12 that as their...how to comply with that violation and if he
13 doesn't do that, I mean, the next move is that leaves
14 closure.

15 MASON BRENT: That might help some.

16 BENNY WAMPLER: If the notice of violation is not
17 complied, then we will issue...we will issue a closure order.

18 SANDRA RIGGS: Closing the well down?

19 MASON BRENT: I mean, that's my question, is
20 complied with when...by when?

21 BENNY WAMPLER: Typically, what you...it varies.

22 What would you have? Do you have a suggestion, thirty (30)
23 days or what?

24

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1 MASON BRENT: My only point is that I am getting
2 awfully tired of going through this.

3 BENNY WAMPLER: I understand.

4 MASON BRENT: And I would like to get it resolved.
5 I mean, if we can have it in a form in which we can resolve
6 it in August, I'm all for that.

7 BENNY WAMPLER: The violation can be promptly---.

8 SANDRA RIGGS: Now, if the violation in order to
9 abate it requires that they certify the principal amounts put
10 on deposit, the date of those dep...well, it's basically the
11 same thing they have already been ordered---?

12 BENNY WAMPLER: Right.

13 SANDRA RIGGS: ---and you disagree with it, then
14 where are we, Jill?

15 JILL HARRISON: I do not anticipate at this point
16 that we will be disagreeing with it based on the information
17 that they have provided to us about the base amounts that are
18 in there.

19 SANDRA RIGGS: But that is always a possibility that
20 even after they---.

21 JILL HARRISON: Well, according to the original
22 orders that were entered, we would have fifteen (15) days to
23 file an objection. If we have had an objection to the
24

1 accounting once it was filed, the original orders provided
2 that there would be another hearing before the Board. So, I
3 think those are the next steps.

4 SANDRA RIGGS: It would be my suggestion to the
5 Board that based upon that certification, if there is a
6 disagreement, that the Board then consider authorizing the
7 Attorney General's Office to inter-plead those funds into
8 Circuit Court and let them fight it out wherever they are
9 going to fight it out. The problem with trying to inter-
10 plead it right now is you don't know what to inter-plead.

11 BENNY WAMPLER: Right.

12 SANDRA RIGGS: But once you have a certification and
13 then you know at least what the operator's representation of
14 the amount is.

15 MASON BRENT: Yeah, I think we can burn that bridge
16 when we get to it. My concern right now is just the non-
17 compliance.

18 BENNY WAMPLER: Right.

19 DENNIS GARBIS: Well, this was...this was...this
20 looks back...like it is back in April of...April. So,
21 certainly they have had...now, let's see when this was
22 originally...this was signed (inaudible) at least ninety (90)
23 days. So, I...as far as I'm concerned, you know, I...I'm not
24

1 very sympathetic with them. Give them thirty (30) days to
2 get it all...by the time we all get back over here, let's get
3 it cleaned up and---.

4 TOM FULMER: Well, I would suggest that the order
5 that the Board issued of what you are requesting is what you
6 need to put in the violation of non-compliance, because they
7 could come in and argue the fact that they did supply you
8 with that.

9 BENNY WAMPLER: Well, that's what we are saying.

10 TOM FULMER: You're saying---.

11 BENNY WAMPLER: That is what we are saying that we
12 will...this violation will include what we are requesting.
13 It will include a certification as to the amount, it will
14 include a hold harmless to the Board for the disbursement and
15 all of those things that we are talking about, and give them
16 thirty (30) days to comply.

17 JILL HARRISON: So, if that is provided to the Board
18 before the August Board meeting and no objection is filed by
19 us, would you anticipate it's possible, and I'm not trying to
20 pin you all down, but it is possible at the August Board
21 meeting that we could at least order the disbursement of
22 principal, putting aside the interest issue and all of that.

23 SANDRA RIGGS: Well, they are going to appeal the
24

1 violation. So, you can anticipate a hearing on the---?

2 JILL HARRISON: Another---.

3 SANDRA RIGGS: ---violation, I would say, and then
4 that would have to get set down for hearing, right?

5 BENNY WAMPLER: I think that is right.

6 SANDRA RIGGS: And then that would go...because it
7 is a violation, it would go through their process.

8 JILL HARRISON: Uh-huh. The inspector, right.
9 Well, being optimistic, if there is no appeal of the
10 violation, and everything is fine with us and we file no
11 objection, would you anticipate then being able to do a
12 disbursement in August of principal, putting aside the
13 interest issue, because I understand that will take some time
14 to work through?

15 BENNY WAMPLER: I don't know who will...you know,
16 what...what group of Board members we will have. I really
17 can't represent it at that time.

18 JILL HARRISON: No, if---.

19 BENNY WAMPLER: Yeah, I don't think that the Board
20 would have a problem, based on our history here of trying to
21 bring all of this about, of disbursing a principal amount
22 provided we were...we had a certification as to that amount
23 and hold harmless.

24

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1 JILL HARRISON: Right. I'm assuming that there
2 would be compliance with the violation and I understand. I
3 just want to try to anticipate any problems that you all
4 might be aware of that we haven't mentioned.

5 SANDRA RIGGS: Well, the only thing you would have
6 to do is make sure that it is renoticed for that...for
7 August.

8 JILL HARRISON: We would have to do that?

9 SANDRA RIGGS: Well, somebody would have
10 to...there's nothing right now due to come back on the Board.
11 So, for the Board to consider it in August, it would need to
12 go back on the docket, I would say.

13 JILL HARRISON: So, if they comply with it, there is
14 no appeal to it, we get the figures in, then---.

15 SANDRA RIGGS: You are looking for another order
16 from the Board, right, on the disbursement?

17 JILL HARRISON: To order the disbursement.

18 BENNY WAMPLER: Well, we could continue today---.

19 JILL HARRISON: So, you all wouldn't just...you all
20 wouldn't just put it back on the docket like you've done this
21 time because---.

22 SANDRA RIGGS: Well, if it were timely. You have
23 got to have it on what, twenty (20) days in advance of the
24

1 hearing. It has got to be published on the docket. That's
2 what I'm saying, it would have to be put on as a conscious
3 decision right now to put it back on the docket for next
4 month.

5 JILL HARRISON: For next month?

6 BENNY WAMPLER: But I'm saying we could continue it
7 today.

8 MASON BRENT: Continue today.

9 DENNIS GARBIS: Sure, continue it.

10 BENNY WAMPLER: Just continue it to next month
11 until---.

12 JILL HARRISON: That would be great.

13 BENNY WAMPLER: ---we get this resolved and then
14 whenever we resolve it we will wrap it up. Does that---?

15 JILL HARRISON: That would be wonderful. Thank you
16 very much. I appreciate that.

17 TOM FULMER: I would make another suggestion, that
18 we approve that they comply with this at least five (5) days
19 prior to the hearing date. So, they can...they can send
20 copies to (inaudible).

21 BENNY WAMPLER: That's a good...that's a good
22 suggestion.

23 JILL HARRISON: That is good.

24
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1 BENNY WAMPLER: That may not give them thirty (30)
2 days, but it will give them---.

3 DENNIS GARBIS: Do we need a motion for all of this
4 that we are talking about?

5 BENNY WAMPLER: Yes. It would be helpful.

6 DENNIS GARBIS: All right. Then I make a motion to
7 do all of the above. No, I mean, we want to formulate...at
8 least have Tom maybe formulate a...an action plan or action
9 group to look into this accounting problem and come up with a
10 potential...a plan of action for next month?

11 BENNY WAMPLER: For regulation. For regulation.

12 DENNIS GARBIS: And what was the second thing we
13 want to do, do the---.

14 SANDRA RIGGS: Letter to operator.

15 DENNIS GARBIS: ---letter to the operator and if
16 there is some castigation in there with the idea that they
17 will provide us within five (5) days of the meeting so the
18 people here can have what they need. And continue the---.

19 SANDRA RIGGS: The issuance of the violation.

20 DENNIS GARBIS: ---issue the violation and continue
21 this matter until next month. So, I guess, there's four
22 (4)...four (4) pieces in that.

23 BENNY WAMPLER: I have a motion?

24

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1 DENNIS GARBIS: That's a motion.

2 MAX LEWIS: I second it.

3 BENNY WAMPLER: Motion and second. Any further
4 discussion?

5 (No audible response.)

6 BENNY WAMPLER: All in favor signify by saying yes.
7 (All members signify by a yes.)

8 BENNY WAMPLER: Opposed say no.
9 (No audible response.)

10 BENNY WAMPLER: You have unanimous approval.

11 JILL HARRISON: Thank you for your time.

12 BETTY (BOYD) KING: We appreciate what you are doing
13 for us, the Hugh McRae and Garden Realty both---.

14 BENNY WAMPLER: Well, hopefully it will all---.

15 BETTY (BOYD) KING: ---but we are anxious to get
16 the money just as soon as we can. Some of us are college
17 people that need tuition and it just seems that every time I
18 have turned around for the past eighteen (18) months that
19 there's been some kind of block put in it...in the way.
20 So---.

21 JILL HARRISON: I don't know...are you familiar with
22 Garden Realty Corporation that it is a family owned business
23 and the shareholders are members of the Boyd family?

24

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